

01:50:54

1 Q. So you wake up from your nap. What do
2 y'all do next?

3 A. I believe before we left, the phone ring --
4 I can't remember if the phone rang or if King called
5 someone. I think that the phone rang once we had
6 both got up, and I really don't know who was on
7 there. It had to have been Louis or somebody there
8 at the party -- and the party I'm saying where the
9 meat was being cooked off at. And right after that
10 phone call we left. Me and King left in Kylie's car
11 to go straight out to where -- out there in the
12 country where them grills were and where the meat was
13 being cooked -- where the black guy was when we left.
14 And we got out there and there ain't nobody inside
15 and the grills wide open smoking but there ain't no
16 meat nowhere. We looked in the ice box. There
17 wasn't one meat. There was one plate, like, with one
18 or two pieces of meat on it with foil on it. Nobody
19 was -- wasn't no note left, the doors wasn't locked
20 or nothing. So we didn't know what happened, I
21 didn't. And King all of a sudden said, "Get in the
22 car. I know where they are. They better not be down
23 there."

24 So we got in his girlfriend's car --
25 Kylie's little blue car and went down the road. I

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1 don't know what city or town, providing it was. We
2 went down the road to this other house; and when we
3 got there it looked like a domino game or a wedding
4 or something going on. The yard was full of cars,
5 and it was obvious that the party had been moved from
6 that location over here to this other house.

7 And when we pulled up -- I can't
8 remember if he honked the horn. I think Courtney and
9 Louis come out -- I don't think it was Louis. It was
10 Courtney -- I know it was Courtney for sure, Louis'
11 girlfriend. Might have been someone else with her.
12 She come out -- she was talking to King and told King
13 to come inside, that that's where the party was going
14 on. We -- you know, she wanted me and King to go
15 inside. And evidently King knew -- he knew whose
16 house that was because he said he wasn't -- didn't
17 want to go inside the house.

01:53:09 18 Q. Okay.

19 A. Because he knew -- he didn't -- he used
20 that word again.

01:53:14 21 Q. I mean, say whatever you need to say.

22 A. And he said he didn't want to go in, and
23 Courtney kept telling him all the meat and beer was
24 in there. And he said that they can just have
25 everything, that he was going back to the apartment.

PAULA K. FREDERICK, CSR
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1 And I can't remember if I was asked to go in or not,
2 but I -- even if I was asked, I wasn't going to go in
3 without King because I'm covered with tattoos and I
4 didn't know it was their home. And I wasn't going to
5 be off in a house not knowing who lived there. I
6 didn't know that that was that guy's house, to be
7 honest with you, that was -- made King mad the first
8 time. I didn't know that was his house, and I didn't
9 know how many -- or who was inside the house. I
10 didn't want to go in by myself so I just left with
11 King, and we went back to the apartment.

01:54:05 12 Q. And you took a nap at the apartment;
13 correct?

14 A. When we got back to the apartment, King got
15 on the phone and called up Keisha Adkins and told her
16 to come over to the house. And then I say about 30,
17 45 minutes after we was there then Louis Berry shows
18 up with Courtney. And they have a plate of meat, and
19 they try to give it to King. And King said -- he
20 cussed them out and told them that they didn't have
21 no business taking all of his stuff to that black
22 guy's house, but he didn't say black guy.

01:54:41 23 Q. Was Louis mad at King for leaving, or was
24 King mad at Louis?

25 A. Louis was mad because King didn't come

PAULA K. FREDERICK, CSR
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1 inside.

01:54:51

2 Q. Okay.

3 A. And King was mad because Louis took the
4 meat and the beer over to that black guy's house and
5 King was expecting to eat the meat and drink the beer
6 all Saturday night and -- Saturday evening and
7 Saturday night.

01:55:06

8 Q. Okay.

9 A. And after he -- Louis Berry brought the
10 meat and Courtney -- and King told them they were
11 going to have to leave the apartment after about a
12 three or four or five-minute argument -- they were
13 going to have to leave the apartment, that he was
14 going to use it for the night.

01:55:22

15 Q. What -- when Keisha got there -- let's
16 start from there. What happened?

17 A. Can I say something?

01:55:29

18 Q. Sure.

19 A. Before that on the way back from that black
20 guy's house where all the meat was -- and the party
21 was going on, the band and all that was inside the
22 house, we had passed that guy Weed -- his name is
23 Weed. I don't know what his name is. And he had one
24 headlight off; and King said, "Park your car at
25 Tommy's house and get in with me. You can come to

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1 the apartment." So we went to Tommy's house, Weed
2 parked his car there, got into Kylie's car; and all
3 three of us went back to the apartment. And whenever
4 Louis and Courtney left and Weed went with them
5 because he knew that King was mad, too -- I knew he
6 was mad, too; but I don't -- I don't -- I didn't --
7 that's -- that was my -- the only person that really
8 I basically knew and I was going to stay there with
9 him because I didn't want to be with, you know,
10 anybody else.

01:56:21 11 Q. Okay. Now, about what time of night is
12 that? Can you recall at all?

13 A. What time of night what?

01:56:28 14 Q. All this is taking place, that Keisha gets
15 to the apartment.

16 A. Well, after they leave and -- Keisha shows
17 up around -- I guess around 10:30 -- 10:00 , 10:30.
18 But before she gets there, King told me -- he said,
19 "Kylie is fixing to come get her car. Don't let her
20 in the apartment. Give her her keys -- put her keys
21 on the front porch and don't let her in the door
22 because I'm going to have Keisha in the back
23 bedroom."

24 So whenever Keisha gets there and they
25 go in the back bedroom then Kylie comes over. Shawn

PAULA K. FREDERICK, CSR
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1 Berry's girlfriend -- I don't know what her name is,
2 but she brought Kylie to come get her car, you know.
3 Before she got there, I placed the keys on the
4 doorknob and locked the door and deadbolted it and
5 shut. And she got her keys and sure enough she was
6 banging on the door and she was wanting in. And I
7 kept yelling, "I'm not opening the door." And she
8 gets there and she wanted to see Bill. I said, "Bill
9 is busy and I'm taking care of some business in the
10 living room. I can't open the door." I wouldn't let
11 her in. I did not let Kylie in.

12 About five or ten minutes after she
13 was trying to get in then she left because she knew
14 that I wasn't going to open the door for her. I
15 imagine she knew what was going on in there as far as
16 Bill having some girl but I don't think she knew who
17 it was at that time.

01:57:39 18 Q. Okay. Now, this puts us at about
19 11:00 o'clock that night; is that correct? Somewhere
20 around that time?

21 A. After Kylie leaves, yes. And then the
22 phone rings -- and right behind King's apartment
23 there was, like, three -- three or four girls that
24 stayed in another apartment. And more or less they
25 was coming over to King's house all the time, and

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1 King and me and Berry and Shawn would all go over to
2 their house sometimes -- on certain occasions. And,
3 you know, it was, like, a friend I guess -- going
4 over there and watching VCRs -- then come get a VCR
5 tape. And they had called and wanted to know what
6 we -- we -- as in me and Shawn and King -- was doing
7 that night. And I told them, "Well, so far King is
8 in a bad mood and he's got this girl in the back
9 bedroom. And Shawn is at work right now." And I
10 explained to her we were supposed to go to this party
11 but the stuff got messed up and I don't even know if
12 there's going to be a party. So they said, "Well,
13 we're out here. Come over." I didn't know where
14 they was. They come over the caller ID box as Joseph
15 Bryant's house. They give me directions to where
16 they was, and I wrote them down. And I told them --
17 I said, "Well, as soon as Shawn gets off work I'll
18 see if he'll take -- me and him can come out there
19 and, you know."

20 So wrote the directions down, and they
21 was still in the back bedroom until Shawn come in --
22 Shawn was a little late. Usually gets there between
23 12:00, 12:30; but I think he was, like, 30 minutes
24 late. It was getting close to, like, 1:00 o'clock
25 before Shawn get there. I'd say maybe 15 till. I

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1 know he was running a little late because I told him
2 when he got in -- I said, "Man, where you been
3 because I told them girls you got off at 12:00 or
4 12:15. They was wanting us to come out there." He
5 was late, and he had been drinking. And he drank --
6 he always had something to drink; but I don't think
7 I've ever seen him that drunk off of, you know,
8 staying off work -- never seen him that drunk that
9 soon.

01:59:54 10 Q. Had you been drinking?

11 A. No, not at the time I wasn't drinking.

01:59:57 12 Q. Okay. So this is about 1:00 o'clock in the
13 morning which would put us into June the 7th
14 datewise. Now, up until this point had y'all made
15 any plans about going out and abducting somebody and
16 taking them out and killing them?

17 A. No, sir.

02:00:16 18 Q. Okay.

19 A. The only plans we made was when Shawn got
20 off of work. Only -- excuse me. And we really ain't
21 made plans. I -- when Shawn got off work, I asked
22 him if he would take me out there to the girls'
23 house -- me and Shawn go out there.

24 And first thing Shawn said is, "Well,
25 where is Bill at?" He calls him Bill, I call him

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1 John. He said, "Where's Bill?" I said, "He's back
2 there in the back bedroom with some girl."

3 "Well, who is it?"

4 I told him -- I said, "Some girl name
5 Keisha Adkins." I just heard the name. I had never
6 met her before. And he said that he knew her.

7 And he started banging on the door to
8 let him know that he was home and that's what
9 interrupted them. And she come out and King come
10 out. And then whenever she come out and King said,
11 "Well, hey, there's my bro right here. Look at all
12 these tattoos." And he showed her my tattoos.

13 And I said, "Come on, Shawn." I kept
14 telling Shawn to come on, let's go, let's go. I was
15 waiting on some girls. And Shawn talked King into
16 going with us. Said, "Come on, King. Come on. Go
17 with us." So that's --

02:01:26 18 Q. All right. Let me take you back now just a
19 minute. Y'all had been working where?

20 A. We had been working where?

02:01:32 21 Q. Yeah. Not on this day. But had you been
22 working while you were in Jasper?

23 A. Yeah. Me and Louis Berry and King, we -- I
24 don't remember who it was -- if it was Louis or King
25 that had found a deal -- or the job for us, but the

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1 jobsite was, like, to clear some big -- a big lot --
2 wood. And the man would pay us \$150 to clear this
3 land -- going to take, like, maybe two or three days
4 because we had to cut down some trees and haul the
5 trees off the land. I think they was going to put a
6 trailer house or shop or something there.

02:02:11 7 Q. Why were you working? Why did you need
8 that job?

9 A. Because I needed some money to get home
10 because I already missed one month of my parole
11 officer. And on top of that I was supposed to be in
12 Sulphur Springs to go to get a divorce set up with my
13 ex-wife. I called my sister and she said that I
14 better be home because the divorce was -- I needed to
15 be in court for the divorce and my parole officer --
16 and I need to see him, too.

02:02:41 17 Q. What did you spend the rest of your money
18 on?

19 A. Well, Shawn -- the whole time there, you
20 know, I'm lifting weights -- he had a weight set set
21 up -- instead of a kitchen table they had a weight
22 set set up in their kitchen area. And I'm working
23 out with King and Berry -- Berry on occasions and
24 King on occasions. And Berry -- he told me that
25 he -- if I wanted to get big -- you know, he had

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1 magazines -- weight lifting magazines. If I wanted
2 to get big like that, that he knew -- he was -- could
3 get the steroids but they was going to cost, like, 4
4 or \$500 for a vial of steroids. And he said they
5 needed some money. So I give him my bus ticket home
6 for the steroids.

02:03:30

7 Q. Did he give you a shot?

8 A. Yes, he give me a shot in the bathroom in
9 the apartment -- in my hip -- right here on my right
10 hip in the bathroom at the apartment. King's
11 apartment.

02:03:41

12 Q. Okay. Now, did y'all have some tools you
13 were working on the property in Wildwood with?

14 A. They didn't have no tools at first, and
15 that was -- I think that the job was -- they may have
16 told him they could clear the land for \$150. But
17 they didn't have no tools.

18 And one night at the apartment
19 somebody said that they knew where they could get the
20 tools to clear the land which -- what was needed was
21 a chain saw and a weed eater to clear the land. So
22 all four of us -- Louis, me and Shawn and King -- got
23 in the truck and we went out. And Louis dropped me,
24 Shawn, and King off; and I don't know where he was --
25 it was a house with, like, some woods beside it.

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1 And King told me to stay in the woods
2 and watch for them while they went into this garage
3 or carport to steal the chain saw and the weed eater,
4 and Louis was going to keep driving back and forth
5 and he'd meet us on the highway. He was going to
6 pick us up and go on to the apartment with the tools.

7 So we put on, like, gloves and spray
8 painted them black at that time. And really it
9 didn't even matter to me because they hadn't made me
10 stay, like, a watch in the woods while they went
11 another 150 yards to take the weed eater and chain
12 saw. And they -- when they come running back to the
13 woods and all three of us run back to the highway and
14 get in the truck with Louis and come back to the
15 apartment. And the next day that's when we took the
16 chain saw and the weed eater out to Wildwood to clean
17 the land.

18 And Louis -- Louis and King got the
19 chain saw and weed eater at the man's property -- his
20 house -- on a trailer that -- we was using his
21 trailer to haul the brush off, and that's where --
22 the last time I seen the chain saw and the weed eater
23 was sitting on that trailer at that man's house. So
24 we took someone's chain saw and weed eater and we
25 just left it there. I don't know if that man ever

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1 turned it in or what.

02:05:52 2 Q. Okay. Now, let's go back to 1:00 o'clock
3 on June the 7th, 1998. At some point did you, Shawn
4 Berry, and Bill King get in Shawn's truck and leave?

5 A. Yes. As soon as Keisha Adkins had come out
6 of the room -- probably about five or ten minutes
7 after she come out, then that's when she went her way
8 and me and Shawn and King went our way.

02:06:22 9 Q. Okay. Do you recall where you were sitting
10 in the truck when y'all left?

11 A. I'm always sitting in the middle because
12 King is always wanting to be by the window, Shawn is
13 driving. And I was always in the middle which is
14 really no problem to me.

02:06:34 15 Q. When y'all left the apartment complex,
16 where were you headed?

17 A. To find them girls' house -- to -- I wrote
18 on -- the directions down on, like, a yellow sheet of
19 paper; and we was going -- and Shawn had even
20 veiwed -- looked at the address, and he said that he
21 knew exactly where that was.

02:06:52 22 Q. Okay.

23 A. We got in the truck and we took off.

02:06:55 24 Q. And tell me about what y'all did. Where
25 did y'all go?

PAULA K. FREDERICK, CSR
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1 A. Before we got out there -- yeah, we loaded
2 up a cooler -- like one of those coolers out there
3 with some beer that was in the ice box, and we took
4 off.

02:07:10 5 Q. Where did you go?

6 A. To find them girls' house. And we kept
7 going down all these oil top roads because way up and
8 down -- the way I wrote it down it's like it said
9 third road on the left or might have said third oil
10 top on the road to the left off the main highway,
11 take that. And we was going down the highway; and
12 there's, like, a dirt road and an oil topped road and
13 another oil top road. The roads was confusing us
14 because the way I wrote it down. So we had all the
15 roads, and the way I had it wrote down we couldn't
16 find them girls' house. So he started getting mad
17 and so we started taking the roads to the right or
18 vice versa left and right. We still couldn't find
19 them.

20 So he got -- started getting madder
21 and madder and started speeding his truck up faster
22 and we went around this corner and it slung the beer
23 cooler out but we didn't know that until we got,
24 like, to the stop sign at the main highway again and
25 he noticed the beer cooler had fell out.

PAULA K. FREDERICK, CSR
(979) 361-4270

1 So we went back to retrieve the cooler
2 which was busted and beer bottles everywhere in the
3 road. And we got all the beer cans and bottles that
4 we could and put them back in the cooler and headed
5 back to town.

02:08:34

6 Q. Okay. But on --

7 A. On The way back to town, though, there was,
8 like, a stop sign at the end of that road and Shawn
9 just drove his truck up real slow to the stop sign
10 and just stepped on it and bent the stop sign over.
11 He didn't drive his truck over. He just knocked
12 the -- bent over almost level to the ground and
13 backed up -- excuse me. And that was it. After that
14 he backed up and got back on the road. Of course, he
15 was weaving a little bit. Not that bad.

16 And all of a sudden he pulls over
17 again on the side of the road on someone's wooden
18 mailbox and gets out and he put the chain -- that
19 same chain there on that -- around that mailbox and
20 pulled the mailbox and -- well, we started pulling
21 the mailbox. And I told him, "Man, you know -- I'm
22 on parole, man. I don't want to be caught with you
23 doing this kind of stuff. And if you going to be
24 acting this crazy, just take me back to the
25 apartment." Because I'm on parole and I don't want

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1 to be in no trouble going -- pulling down a mailbox
2 because that's, like, a federal -- I always thought
3 federal didn't want -- don't want, like, a cop to
4 pull us over for pulling a mailbox. So he did.
5 After he pulled so far, he pulled over and unchained
6 the mailbox and was acting right.

02:10:08 7 Q. Where were you while he was doing all of
8 that?

9 A. In the front seat.

02:10:14 10 Q. Now, at some point during the night of the
11 7th and early morning -- that would have been a
12 Sunday morning -- did you, Bill King, and Shawn Berry
13 come into contact with James Byrd?

14 A. Yes. We -- yes.

02:10:32 15 Q. Okay. Tell the jury about what y'all were
16 doing and how you came across Mr. Byrd.

17 A. Well, we didn't have very much beer with us
18 because, like I said, we busted the cooler from
19 slinging around that corner. And instead of going
20 back to the apartment Shawn said that he was going to
21 go back to the theater where he had all some -- the
22 beer stashed at and he was going to get the beer out
23 of the theater. So we was headed to Jasper theater
24 from wherever that road was where we pulled that
25 mailbox down. And we was going to the theater to

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1 get -- like a resupply of beer instead of going back
2 to the apartment, and that's when we seen Byrd
3 walking on the side of the road.

02:11:16 4 Q. Okay.

5 A. Going to the theater.

02:11:19 6 Q. Did y'all stop and pick him up?

7 A. Yes.

02:11:22 8 Q. All right. Tell the jury how that came
9 about.

10 A. Passed him on the side of the road. Shawn
11 went around him, I don't know how many feet. From
12 here to that wall or further -- about from here to
13 that wall. And he stopped his truck and he got out
14 and King was telling him as he was getting out of the
15 truck, "Don't pick him up." But he was using bad
16 words, man; and I don't want to say them. And he
17 told him not to pick that guy up and -- hell, it
18 didn't matter to me I -- excuse me.

02:11:56 19 Q. Did you know --

20 A. I wasn't going to say nothing because it
21 wasn't my truck and it didn't bother me.

02:12:01 22 Q. Did you know James Byrd?

23 A. No.

02:12:02 24 Q. Had you ever seen Mr. Byrd before in your
25 life?

PAULA K. FREDERICK, CSR
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1 A. No.

02:12:05 2 Q. Okay. And whenever y'all see Mr. Byrd, are
3 the three of y'all still sitting in the front seat of
4 the truck?

5 A. When we seen Mr. Byrd?

02:12:14 6 Q. Yes, sir.

7 A. Yes.

02:12:15 8 Q. Okay. Finish your story.

9 A. So Shawn talks to him, I don't know, a good
10 minute or two minutes; and the back of the -- you
11 know walking towards the truck -- both of them is
12 walking up on the truck now. And then whenever they
13 get to the back of the truck, Byrd steps up into the
14 back of the bed and Shawn comes in and shuts the door
15 and King tells him, "What are you doing?" I can't
16 say them cuss words to these people.

02:12:43 17 Q. Tell the jury what happened. That's what I
18 want them to know.

19 A. He told him -- he said he didn't -- King
20 told him he didn't want him -- he didn't want him in
21 the truck. So Shawn told him he was just taking him
22 home and for King to relax over there. He was just
23 taking Byrd to his house.

24 So he took off. Now we're driving
25 down the road. And we didn't even go to get no beer

PAULA K. FREDERICK, CSR
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1 at the theater, that was -- that idea was just --
2 like, wasn't in our minds no more. We was taking
3 Byrd home. So we just take off down the road and we
4 see this gas station that was closed down. It was, I
5 guess, after hours. It was still in business, but
6 the lights and stuff was off. And we stopped there
7 and everyone gets out to use the bathroom. There in
8 that gas station -- and Shawn is laying there in the
9 bed of the truck talking to Byrd, and me and King is
10 in the front. King is in the front using the
11 bathroom by the headlights. King keeps telling me
12 that he's fixing to check Shawn for taking Byrd in
13 the truck with him, that he was fixing to go back to
14 the apartment, that he didn't want to be in there
15 with Byrd.

16 So Berry all of a sudden comes up to
17 the front of truck with and he says that his friend
18 wants to ride in the front because it was cold in the
19 back of the truck.

02:14:11 20 Q. Let me stop you right there. Up until that
21 time was Mr. Byrd in the back end of that truck?

22 A. Yes. Byrd was riding in the back by
23 hisself. Me, King, and Berry was in the front.

02:14:22 24 Q. Okay. Go ahead.

25 A. So we -- he said his friend wanted to ride

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1 in the front because it was cold in the back. King
2 got even madder and said the only way he was going to
3 get in the back of that truck was if Shawn would take
4 him straight to the apartment. So Shawn said he
5 would.

6 And I didn't want to leave my, I
7 thought was my friend, in the back, King, so I got
8 back there with him. Well, Shawn and Byrd was in the
9 front.

10 So we go back to the apartment, and
11 King gets out -- jumps out -- off the side of the
12 truck and runs up to the apartment. And I get out on
13 the -- where Berry's door is. And Berry is telling
14 me to go up there and tell King to calm down and get
15 in the truck and that as soon as we take Byrd home
16 then we was going to try to find them girls' houses
17 again.

18 So I go up the stairs and go in the
19 apartment and told King exactly what Shawn said:
20 Just relax, it ain't no big deal, we going to take
21 him home and look for that girls' house.

22 He didn't want to at first. I guess I
23 stayed up there seven or eight minutes trying to talk
24 King into going, and finally I talked him into going
25 with me and Shawn to the Byrd home.

PAULA K. FREDERICK, CSR
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1 So -- but King said he was going to
2 get some beer before we left so we got a miniature
3 cooler, put like six or seven, eight beers inside the
4 cooler -- just a little old miniature cooler. Before
5 we left, though, King said that he wanted me to wear
6 a sweater because he was wearing a sweater and it was
7 cold in the back of the truck. So he threw me, like,
8 a gray sweater and he put on a gray sweater, too, and
9 come down the stairs. He was carrying a cooler, got
10 in the back of the truck. And, of course, he was
11 cussing -- he wasn't cussing that bad until we got
12 going down the stairs within Shawn's range where he
13 could more or less -- Shawn could hear him cussing or
14 Byrd -- I would imagine Byrd and Shawn could hear him
15 cussing.

16 So we get in the back of the truck and
17 we take off.

02:16:34 18 Q. Okay. Where did you head? Did you know
19 where y'all were going?

20 A. I didn't know. Like I said, I thought --
21 from what Berry said we was taking Byrd home. That's
22 all -- that's -- by that point, that's all I knew
23 right there is taking Byrd home.

02:16:49 24 Q. Now, tell the jury where you headed.

25 A. We were taking Byrd home as far as what

PAULA K. FREDERICK, CSR
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1 Berry was telling me. And it was a good, I don't
2 know -- I don't -- couldn't even -- I would say about
3 a 20- or 30-minute drive, and we were on that road --
4 like an oil drop road or -- really it was like -- it
5 didn't even look like a road. It looked like a bunch
6 of ruts.

7 And we turned down that bumpy road --
8 that dirt road, and I asked King -- I said, "Man,
9 where in the world --" actually I said, "Where in the
10 hell are we going," because I didn't think nobody
11 would be living, like, way down there. And King said
12 that he knew that that land belonged to Shawn --
13 Shawn's granddaddy or daddy's land and that's where
14 we was going. And that's all King said to me. I was
15 still under the impression we were taking Byrd home.

02:17:50 16 Q. Had you ever been out to that area before?

17 A. No.

02:17:52 18 Q. Okay. Now, once you -- you get out there,
19 do you leave the black top road or the asphalt road
20 at some point?

21 A. Did we --

02:18:05 22 Q. Did y'all wind up going down an old dirt
23 road -- a logging-type road?

24 A. I really couldn't tell you. Only thing I
25 can tell you is that the road that caught my

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(979) 361-4270

1 attention was that -- didn't even look like a road.
2 Looked like a bunch of ruts and stuff. Because I'm
3 in the back. I wasn't paying really attention which
4 direction the road -- the oil top road.

02:18:29 5 Q. The road you was on was very rough?

6 A. Yes, it was rough.

02:18:33 7 Q. Okay.

8 A. I mean, it wasn't -- I wouldn't consider
9 that a road because ...

02:18:39 10 Q. About how far --

11 A. Like a ditch or a rut.

02:18:42 12 Q. About how far down that road did y'all
13 drive, to the best of your memory? Did you go -- was
14 it a pretty good ways back up in the woods?

15 A. Yes, it was a good ways. Like I said, I
16 didn't think nobody lived out there -- like out in
17 that kind of environment where it's that much thicker
18 woods.

02:19:01 19 Q. Did you have any earthly idea of why y'all
20 were going down that road?

21 A. No. I'm still under the impression that
22 Berry is taking Byrd home and that King told me once
23 we turned down that hilly road that Shawn's daddy --
24 I can't remember. His daddy or granddaddy -- owned
25 some land out that way and that he was familiar with

PAULA K. FREDERICK, CSR
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1 of the back of that truck. I'm not sure if it was
2 before or after --

02:20:23 3 Q. Are you --

4 A. -- when I took my first --

02:20:25 5 Q. Are you a big drinker?

6 A. No. Matter of fact, I didn't start -- from
7 the time I got out of prison all the way up till
8 about -- well, until we stole all that beer, took it
9 to Tommy Faulk's house -- that was, like, the first
10 night I took my first drink of beer since I got out
11 of prison. But the whole time I'm at King's
12 apartment from the time I can get there that's all
13 them people did. That's all they kept in their ice
14 box was beer -- racks and racks and racks of beer.
15 And they have -- people come over after Shawn got off
16 of work -- house full of people bring quarters and
17 drink beer, and I just stood there more or less alone
18 smoking cigarettes while they drank their beer.

02:21:07 19 Q. Okay. Let me --

20 A. That's basically why we went -- can I say
21 that about the food?

02:21:13 22 Q. Yes, sir.

23 A. Because every day I complained about King
24 not having no groceries in the house, and I was
25 hungry. And his girlfriend Kylie and Courtney, Lewis

PAULA K. FREDERICK, CSR
(979) 361-4270

1 Berry's girlfriend -- they would bring me, like,
2 hamburgers and tacos from fast food restaurants, to
3 eat. And then that one night -- that's whenever I
4 told them, "Man, we got to get some groceries. Y'all
5 going to have to get some groceries. I'm hungry."
6 You know, because I ain't in, like, two or three
7 weeks. "Y'all ain't had no food to eat." So they
8 said, "Well, come on." Shawn and King said, "Come
9 on. We'll go get some groceries. You want some
10 groceries? We'll get you some groceries." First --
11 like a motel -- went to a motel and we jumped over,
12 like, a rail around the swimming pool and went there
13 and tried to get something to eat out of this motel
14 room which nothing was in there -- was a bunch of
15 potato chips, corn chips, and Doritos -- about 50
16 bags of chips. And we took all them chips, and I
17 told them, "Man, this -- can't live off chips, man.
18 This ain't nothing." So then they had the bright
19 idea of doing that steak house. That's where we got
20 the meat. And then that's basically why -- how and
21 why the meat come up because I was complaining about
22 there wasn't no food to eat and they wanted to, I
23 guess, be big shots and go for the steaks at the
24 steak house instead of something -- a small something
25 to eat.

PAULA K. FREDERICK, CSR
(979) 361-4270

02:22:52 1 Q. Now, we're going to go down this logging
2 road. Okay? Do you recognize that?
3 A. Yeah, but that messes me up. I can't read
4 that kind --
02:23:00 5 Q. No. What I'm saying --
6 A. I recognize the lines, yeah.
02:23:05 7 Q. And have you ever seen that logging road
8 during the daytime?
9 A. No, not during the daytime. Just that
10 night.
02:23:12 11 Q. Did you ever see this area anywhere out
12 there during the daytime?
13 A. No.
02:23:16 14 Q. Okay. Now --
15 A. Well, the film they showed the other day.
02:23:20 16 Q. Well, I understand; but have you ever been
17 out there during the daytime?
18 A. No.
02:23:23 19 Q. I want you to tell the jury -- y'all start
20 going down this logging road, you and King are
21 sitting in the back smoking and drinking. What
22 happens whenever you get -- I'm going to tell you
23 that you -- when you stopped that truck somewhere
24 around in there?
25 A. I don't know. Right about in there the

PAULA K. FREDERICK, CSR
(979) 361-4270

1 way -- that's not very clear to me.

02:23:43 2 Q. Well, tell the jury --

3 A. We go all the way down that bumpy, hilly
4 road, ditch, or whatever it was. Shawn gets down
5 there and the road is not very wide, probably as wide
6 as the truck itself. And that's it. And he gets all
7 the -- goes down as far as he was going and he turned
8 it around and put it in reverse and back up like
9 running off of a cliff right to a ditch and turned
10 the truck around all the way into the next direction.

02:24:17 11 Q. Okay. What happens --

12 A. And he stopped. And whenever he stopped,
13 King gets up on the bed and jumps out the back and,
14 like, walking around from riding that far. And I
15 looked at that sliding glass window and I asked
16 Shawn -- I said, "Man, what in the hell are we doing
17 out here?" You know, because didn't seem right to
18 me. And he -- he told me -- he said he was trying to
19 get us some juice, just to be quiet. And he
20 slammed -- didn't slam but he slid the glass door
21 shut on the window.

22 So I go back there and I tell King,
23 "Man, what is the deal with juice? What is juice?"
24 And then King explained to me -- that the steroids
25 that Shawn was using that he had purchased -- ended

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(979) 361-4270

1 up giving me the shot -- the steroids, that's what he
2 was talking about, the juice.

3 So after that, more or less, me and
4 King sat on the tailgate; and we was just --

02:25:16 5 Q. Was there a tailgate on that truck?

6 A. No, there wasn't no tailgate. We was just
7 sitting there. I can't remember the conversation we
8 was having. We was just sitting there. All of a
9 sudden I told him -- I said, "I got to take a leak,"
10 or use the restroom. So I go over to the driver's
11 side, like to the back fender wall. And I'm using
12 the restroom; and King starts using the bathroom,
13 too, except for he starts trying to show me his
14 private parts. So I, you know, pull my pants up and
15 zip my pants up. And I reached over inside the bed
16 of the truck and I grabbed the paint -- can of that
17 black spray paint.

02:25:58 18 Q. Right.

19 A. And I told him if he didn't stop trying to
20 show me them -- his thing that I was going to spray
21 it.

02:26:06 22 Q. What does it mean to get busted or -- what
23 do you -- I forget the term you use. What does it
24 mean if you --

25 A. In prison that's what they call burning

PAULA K. FREDERICK, CSR
(979) 361-4270

1 someone up whenever you show them your private part
2 and they glance down. That's considered you burned
3 that person up because they seen your private part.

02:26:25

4 Q. Okay.

5 A. And basically that's what he was doing, was
6 trying to burn me up. In other words, he was trying
7 to get me to look at his thing.

8 So after he turned around -- I still
9 had the paint can in my hand, and I just started -- I
10 was spraying the leaves on the side of the truck
11 where I was using the bathroom at. And then all of a
12 sudden here comes Byrd out of the passenger side and
13 is walking back there where me and King was. And he
14 says he wanted to smoke; and he said, "Let me smoke
15 with you white boys." And I'm still spraying the
16 leaves -- I ain't painting nobody. Then all of a
17 sudden I hear some glass break and that's what made
18 me look around. And whenever -- instantly after I
19 heard that glass break -- as soon as I looked around
20 and King and Byrd was fighting --

02:27:15

21 Q. Okay.

22 A. -- right there at the back of the truck on
23 this side of the back.

02:27:19

24 Q. Where were you whenever you heard the glass
25 break?

PAULA K. FREDERICK, CSR
(979) 361-4270

1 A. On just the opposite side -- on the
2 driver's side where the fender was.

02:27:28 3 Q. Okay. Go ahead. King and Mr. Byrd are in
4 a fight.

5 A. Yes, they're fighting. I don't know what
6 to do. I go around the side of the truck, and
7 there's still no exchanging of fists -- hitting each
8 other in the face. So I -- when I cleared the -- go
9 around the corner of the truck, I put my hand on the
10 truck and I tried to kick Byrd in his side.

02:27:58 11 Q. Okay. Did you make contact with Mr. Byrd?

12 A. No. I may have. I'm not going to lie.
13 But I just kicked one time, and I hurt my toe.
14 That's how I hurt my toe.

02:28:10 15 Q. Now, let me stop you right there. You had
16 previously talked to the FBI back before --

17 A. Yes, I know. I told them that that's not
18 how it happened.

02:28:20 19 Q. Did you lie to them about --

20 A. Yes. I told them that -- yeah. I told
21 them that I hurt it picking up some beers out of the
22 ditch.

02:28:32 23 Q. Okay. So you hurt your foot. Then what do
24 you do? Or -- is Mr. Byrd and Mr. King still engaged
25 in a fight?

PAULA K. FREDERICK, CSR
(979) 361-4270

1 A. Yes. That did stop whenever I kicked -- I
2 was trying to hit him in his side -- in Byrd's side
3 because I wasn't going -- trying to break them up and
4 then step in the middle of their fists swinging so I
5 thought if I kicked him he would move out of the way
6 and turn his attention toward me and they would stop
7 long enough to get his attention broke up so they
8 wouldn't be fighting.

02:28:58 9 Q. Okay. Let me stop you again. Whenever you
10 tried to kick Mr. Byrd, did you intend to kill him
11 with that kick?

12 A. No. I told you I tried to just -- that's
13 the reason I -- I was kicking -- I wasn't going to
14 kick King and I wasn't fixing to step in between the
15 fistfight -- throwing fists, exchanging punches.

02:29:20 16 Q. My question is: Did you intend for
17 Mr. Byrd to die at that point in time?

18 A. No. I was trying to break up the fight.

02:29:27 19 Q. Okay. Now keep going.

20 A. As soon as that pain got in my toe from
21 that one kick, I reached down to grab my toe and kind
22 of hobbled around for a couple of feet. And I still
23 had the spray paint in my hand is whenever -- and I
24 guess just reaction or -- from the pain it made me --
25 I come up and sprayed Byrd in his face.

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02:29:55 1

Q. Okay. When you sprayed Mr. Byrd in the face with that spray paint, did you intend to cause his death?

2

A. No. I was just trying to break them up.

02:30:07 5

Q. Okay. What happened next?

6

A. After I sprayed him in his face, then King, like, grabbed me -- like, don't do that. Don't be spraying no one in the face. And he grabbed me, like, around my arms; and I still had the paint can in my hand.

10

11

Shawn had come around the side of the truck; and about the time that King had grabbed me, that's when I heard the snapping of Shawn's knife. He always carried, like, a chrome-plated stainless steel knife.

12

13

14

15

02:30:36 16

Q. Okay.

17

A. And he popped it open; and whenever I heard that popping sound -- and then that's whenever I'm, more or less, loosened up from being -- trying to get out of King's hold while Byrd still waiving his hands up like this right here. (Indicating)

18

19

20

21

22

Shawn come around with that knife. I guess he cut his throat because that's what it appeared to me because as soon as he made that sweeping motion it was, I guess, like -- everything

23

24

25

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1 stood still for a minute -- everyone lost everything.
2 Byrd slid down the side of the truck, King let me go,
3 I dropped the paint can. I walked to the front of
4 the truck and made a U-turn and the door was still
5 left open and I got inside the truck and I smoked
6 me -- lit me a cigarette trying to -- because I had
7 never seen no one get -- anything like that as far as
8 the knife cut.

9 So I'm sitting in the truck and I'm
10 smoking a cigarette and he -- King -- five or ten
11 seconds after that King gets in the truck, too. And
12 I scoot over, and King gets in and shuts the door.
13 And about the time he shuts the door that's whenever
14 we hear the chain come out of the back of the
15 truck -- rattling vibrating the truck. And I'm not
16 thinking -- the only thing I am personally thinking
17 is that -- does he want to use that chain to pull a
18 tree or stump or whatever just like he did that
19 mailbox that we had just got through doing in Jasper.
20 So nothing is said about -- nothing about where the
21 chain was hooked to or nothing.

22 So Shawn gets in the truck and we take
23 off, and then -- I don't know how far we went. I
24 guess -- for like -- just getting the truck out of
25 second gear -- I don't know how far it was. We went

PAULA K. FREDERICK, CSR
(979) 361-4270

1 down just a little short way. And all of a sudden
2 Shawn makes the statement that his chain had come
3 off. He said, "Well, hang on. My chain just come
4 off." And he backs the truck up. Whenever he backs
5 the truck up, he stops.

02:32:59 6 Q. Did you get out of the truck at any time
7 whenever that truck stopped?

8 A. No. Shawn got out, and he was -- I seen
9 him, like, feeding the chain from underneath the
10 truck. But I also noticed Byrd's body was not no
11 longer on the side no more. It was in, like, the
12 center of the road with his -- he didn't have -- his
13 arm was like a straight body figure.

14 But -- I don't know what you're
15 looking for. That's what Shawn was feeding the chain
16 through the thing.

02:33:37 17 Q. Let me back up. Prior to this point in
18 your testimony did you, Bill King, or Shawn Berry
19 pull Mr. Byrd's pants down around his ankles to
20 somehow bind him or --

21 A. No.

02:33:53 22 Q. -- restrict his movement?

23 A. Shawn kept feeding the chain -- got
24 finished pulling the chain through there. I was
25 looking through him -- I had the sliding glass window

1 pushed open. I was looking to see what he was doing
2 as he fed the chain through -- underneath the truck.
3 Then he started kicking Byrd. I don't know where he
4 was -- I couldn't see him from, like -- I was -- say
5 from his chest up, I couldn't see him; but I know
6 that Shawn was kicking him a three, four good times.

7 And I turned around -- I told King --
8 I said, "Man, tell him to leave the guy alone, man.
9 Let's get the hell out of here, man. He's already
10 cut his throat now he's over there kicking him."

11 So that's when King opened his door
12 up -- King opened his door and stood out there and he
13 told Shawn to get his ass in the truck and to leave
14 him laying there. And Shawn was, like -- he was
15 trying to catch his breath and grabbed Byrd by his
16 pants leg -- I say about where your gaps are. And he
17 slung him around and put -- I did not see him tug tie
18 the chain to the -- Mr. Byrd's leg but I seen him
19 sling him around and bent over as if he was putting
20 the chain to his legs -- tying the chain to his legs.

02:35:11 21 Q. What happened next?

22 A. When Shawn got inside the truck, I said --
23 I personally told Shawn -- I said, "Man, you're not
24 fixing to drag this man like you did them mailboxes,
25 are you?" And he told me he knew where he was

PAULA K. FREDERICK, CSR
(979) 361-4270

1 taking -- that he knew where he was taking him and
2 for me not -- just to be quiet.

3 So we take off going down that road
4 and then -- yeah, we made a turn after we got off
5 that bumpy road -- made a turn.

02:35:46 6 Q. As you're going down the road, tell the
7 jury what happened.

8 Let me ask you this: From the time
9 that Shawn Berry cut Mr. Byrd's throat did you ever
10 hear another sound or another noise out of Mr. Byrd?

11 A. No. The last words I heard or the last
12 sound -- the words, however you want to say it --
13 was, "Let me smoke with you white boys"; and that was
14 it. That was all that I remember -- that was from --
15 from the time we left the apartment that's all I
16 heard Mr. Byrd say was at that point, "Let me smoke
17 with you white boys." And I assumed that -- I don't
18 know how -- what happened, but that was his exact
19 words. He come back there, I guess, wanting a
20 cigarette I guess.

02:36:39 21 Q. Did -- once you get out on the road where
22 you say you make the turn, tell the jury what
23 happened.

24 A. We take off down the road, and we're still
25 going. And then whenever he hits that culvert, I

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1 told Shawn again, "Man, pull the truck over." I look
2 back and I thought he had come off right there. I
3 didn't know that if -- that he had lost his arm and
4 his head. And I told Shawn to pull over -- man;
5 that's it; to pull over and take the man off. And he
6 said that we was almost there and not to worry about
7 it.

8 So we go to, like, a -- he's still
9 driving the truck. After even -- even after it was
10 over with, you know -- I mean, everyone in that truck
11 knew that something had happened because it felt like
12 the rear end or the transmission had fell out.

02:37:31 13 Q. Okay.

14 A. And I tried to tell him, "Take it off
15 the" -- about second or third time I told him. And
16 then he went to, like, a paved road and he made a --
17 it was, like, a main highway. And I told him, "Man,
18 let's -- let's let him go, man, and go on home since
19 we're right there on the highway." And he wouldn't
20 do it.

21 He made the U-turn like he missed his
22 turn, spun around on that highway -- turned around
23 and he went straight to that church yard. And when
24 he went into the church yard, it was, like, almost
25 run through their church wall on that church house

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1 and slid -- like slid on his brakes before he get to
2 the church.

3 And instantly King opened his door up
4 and he got out of the truck. He walked around -- he
5 told Shawn that if he didn't straighten his drunk ass
6 up that he was fixing to make Shawn walk and he would
7 drive his truck and to get his ass over there to that
8 graveyard. And he got back -- King got back in.

9 And Shawn backed up over Mr. Byrd
10 right there in that graveyard. I felt -- I felt him
11 when he backed up over him like he didn't even -- I
12 don't know. He just backed up over him and went
13 straight to the graveyard. When he got to the
14 graveyard, King said, "Pull over." And Shawn pulled
15 over; and King said, "Not here. It's going to leave
16 tracks." So he pulled up 2 or 3 feet -- 5 feet. And
17 King got out, and King's the one that took the chain
18 off of Mr. Byrd's legs right there at the graveyard.
19 I guess King wanted the man to be at the graveyard.
20 That's it.

02:39:16 21 Q. Did you know that there was a church and a
22 graveyard out in that area?

23 A. No, I didn't know that. Shawn just kept
24 telling me -- Shawn was the only one saying he knew
25 where he was taking him, and that's all that was

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1 said. That's the only knowledge I had. Shawn said
2 he knew where he was taking him.

3 And when they got to the church -- I
4 guess that's where Shawn wanted to take him, was the
5 church; and King told him to take him over there to
6 that graveyard.

02:39:41 7 Q. Did y'all ever have any discussions,
8 conversations, anything at all to where you had this
9 planned?

10 A. No.

02:39:52 11 Q. Did it come --

12 A. After it was over with and -- King said on
13 the way home that if any -- if we ever get questioned
14 about this, we was supposed to tell the cops that we
15 was at the apartment, that his girlfriend had just
16 come over to the house. Keisha Adkins was going to
17 cover it to make -- say that we was all three at the
18 apartment whenever all that happened.

02:40:15 19 Q. Let me ask you -- let me ask you this: The
20 story that you just got through telling this jury,
21 did you ever write that in a kite? Did you ever send
22 that?

23 A. No, because that's the truth; and King
24 didn't want -- you know, I guess he didn't want to
25 take it in the position that I don't know why he

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1 didn't tell these people that when he got up here.

02:40:39 2 Q. When y'all get back to the apartment, what
3 do you do?

4 A. King goes -- King went straight to his
5 bedroom and Shawn went to the bathroom and I went
6 there in the ice box and I got a beer and I sit down
7 on the couch trying to relieve the pain on my toe and
8 try to calm my nerves on what had just happened
9 because -- I don't know how you say it. I didn't
10 know how I was going to explain to anybody how -- I
11 didn't know how to explain to anybody being on parole
12 being in that situation I was just in.

02:41:10 13 Q. How did you sleep that night?

14 A. I didn't sleep at all until it got, like,
15 daylight.

02:41:15 16 Q. Okay. Why didn't you call Sheriff Rowles,
17 Chief Alexander, some law enforcement?

18 A. I didn't know who to call. I wouldn't even
19 call my girlfriend, to tell you the truth. I was
20 worried. I didn't -- I guess you could say you don't
21 know what to do until you get in that position and...

02:41:36 22 Q. What was the right thing to do at that
23 time, looking back?

24 A. I guess, like you said, to call the police.

02:41:49 25 Q. Okay. Now, later that afternoon -- or

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1 let's take you into the hours of Sunday during the
2 day. Where is the chain whenever Mr. Bill King gets
3 through unchaining Mr. Byrd?

4 A. Puts it in the back of the truck. I don't
5 know exactly what location. But I do know that as
6 soon as it got daylight I went -- I had done smoked
7 up everyone's remaining cigarettes in the house --
8 there wasn't no cigarettes. And I went out to the
9 truck looking for cigarettes. I moved everything
10 around in the cab and in the back of the truck
11 looking for cigarettes because me and King was in the
12 back of the truck and I didn't know if one or two --
13 however many cigarettes might have fell out that
14 night.

02:42:35 15 Q. Okay. Let me ask you this: You told the
16 jury that when y'all were still back on the logging
17 road when Shawn Berry said that his chain came undone
18 that you turned around and you saw Mr. Byrd back
19 there. From that point did you ever see Mr. Byrd's
20 body again?

21 A. No. I seen whenever King was undoing his
22 ankles, but I didn't see his full body. I seen the
23 back of King's back bending over -- and I don't want
24 to look at them pictures.

02:43:11 25 Q. Well, you're going to because I'm going to

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1 ask you if you've ever seen this before. I want to
2 know if you've ever seen State's Exhibit 1A. Have
3 you ever seen that? Have you ever seen State's
4 Exhibit 1?

5 A. I don't want to look at them.

02:43:33 6 Q. Have you ever seen State's Exhibit 1B or
7 any of these photographs, Russell?

8 A. I don't want to look at them. You know I
9 don't know that stuff, man.

02:43:45 10 Q. Did you intend for this to happen? Did
11 you --

12 A. No, I did not intend -- I intended to break
13 up the fight; and had I known that there was the
14 results, I would have went to the cops.

02:44:00 15 Q. Prior to today have you ever seen those
16 photographs?

17 A. I can't handle it.

02:44:05 18 Q. Have you ever seen those photographs prior
19 to today?

20 A. No, I haven't; and you know that.

02:44:11 21 Q. Okay. Did you see Mr. Byrd's body out
22 there that night? All I want is for you to tell the
23 jury --

24 A. I didn't see it looking like that. I seen
25 him whenever Byrd (sic) was kicking him. That's the

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(979) 361-4270

1 last close-up I seen of him. Then I seen King
2 bending down taking the chain off of him.

02:44:29 3 Q. Okay.

4 A. And I seen nothing looking like that.

02:44:31 5 Q. All right. Let me ask you this: The next
6 day is Sunday. You stayed up all night, you get up
7 the next morning, you go out to the truck and look
8 for a chain -- I mean, cigarettes. The chain is
9 still in the truck; correct?

10 A. Yes, the chain is still in the truck.

02:44:47 11 Q. How did the chain get washed? Who went and
12 washed the truck?

13 A. I don't know who went to wash the chain. I
14 know Shawn and King were at the theater to wash the
15 truck.

02:44:57 16 Q. Okay. Did you participate in washing the
17 chain?

18 A. No.

02:45:02 19 Q. Okay.

20 A. The chain -- I seen the chain back there
21 Sunday morning whenever I was looking for them
22 cigarettes, and that was the last time that I had
23 seen the chain in that truck.

02:45:14 24 Q. Okay. Did you participate in hiding the
25 chain?

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1 A. No. I didn't know the chain was even here.
2 I didn't -- wasn't even looking for the chain.

02:45:29

3 Q. Okay.

4 A. I know that I had moved the chain around
5 Sunday morning, but other than that I didn't have --
6 I didn't have no reason to even look for that chain.

02:45:38

7 Q. Okay. Now, as far as the tire on Shawn
8 Berry's truck -- tell the jury about the tire and how
9 it got flat and all of that.

10 A. The tire got flat out at Wildwood when we
11 was cleaning that land. We run over, like, a stick
12 or something -- stump, whatever y'all call them
13 things sticking out of the ground. It hit, like, a
14 sidewall on there. And we got it as close as we
15 could, out there at Wildwood, to that guard station.
16 Like he said, we got Fix-A-Flat and put it in there
17 and jacked up the truck to change the tire.

02:46:14

18 Q. Was that at the theater?

19 A. Where?

02:46:16

20 Q. Was it at the theater?

21 A. No. It's the flat at the -- at Wildwood.
22 The reason he jacked up the truck at the theater was
23 because King told Berry that he needed to change the
24 front tire because it was the odd ball tire.

02:46:32

25 Q. Okay. Did you participate?

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1 A. And that was the front driver's side -- the
2 flat one on Wildwood.

02:46:37 3 Q. Who took the tire and hid it behind the
4 screen?

5 A. I didn't know nothing about that until
6 y'all asked me about that. I didn't see no one hide
7 it, or I don't know why they would even hide it.

02:46:59 8 Q. Okay.

9 A. I was at the theater whenever Shawn Berry
10 and his girlfriend come over and the tire was put in
11 that white car -- Shawn Berry's girlfriend's and they
12 went to get another tire. And I remember the truck
13 being jacked up and I had to stay at the theater -- I
14 guess I didn't have to. I was trying to get cleaned
15 up with Shawn because Shawn and King had went to wash
16 the truck. It was just like -- I don't know how to
17 say this. A lot of stuff going on and the theater
18 wasn't getting cleaned up and it fixing to open for
19 the night and it was still messed up. So I was, I
20 guess, left in charge of cleaning it while they went
21 to wash the truck. And when they come back, Shawn
22 and his girlfriend went to get that tire. And I was
23 there. And after they washed the truck, that's when
24 me and King went to Tommy's house.

02:47:53 25 Q. Did you see Bill King take that chain out

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1 back and hide it when y'all went to Tommy's house?

2 A. No. Whenever we got there, we pulled up to
3 the -- like almost to the back on the side and I got
4 out and King got out and -- I just went straight up
5 there and Tommy's back door was open and I went in
6 his house and when I went in, I looked in the living
7 room; and he was picking up beer cans and
8 straightening up his living room. And I told him, "I
9 got to use your bathroom." And I went straight into
10 his bathroom and was taking -- you know, using the
11 restroom.

12 Whenever I got out, King was in the
13 living room and they got on the phone and King
14 started asking him if he heard what happened that
15 night -- not that night but, you know, Sunday
16 night -- Sunday morning. And he said he didn't know.
17 And I don't know who he was calling. I guess someone
18 to find out if it had come over the radio about what
19 had happened the night before. We wasn't there,
20 about, five or maybe ten minutes and we got in the
21 truck and we left.

22 But King did not come in with me. I
23 went in by myself; and, like I said, I went straight
24 to the bathroom in front of the back door. And I
25 used the bathroom. When I came out, King was already

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(979) 361-4270

1 in the house. There's no telling. He -- I would say
2 he's the one that took it there.

02:49:15

3 Q. Let me -- this is my last question. Did
4 you intentionally engage in the kidnapping of James
5 Byrd and intend to cause his death? Yes or no.

6 A. I didn't mean to cause his death. I had no
7 intentions of doing -- killing nobody, and I don't
8 know what you mean by kidnapping. What are you
9 saying kidnapping?

10 MR. WALKER: We pass the witness, Your
11 Honor.

12 THE COURT: All right. We're going to
13 take a '20-minute recess. I'll ask the defendant if
14 you'll step back over to your counsel, please.

15 Ladies and gentlemen, you may retire
16 to the jury room.

17 (Recess taken)

18 MR. HARDY: May I begin?

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. HARDY:

03:12:25

22 Q. Mr. Brewer, you stated that you were a
23 runaway as a juvenile?

24 A. Yes, sir.

03:12:30

25 Q. About when was that?

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1 A. Back in my younger days whenever I was 12,
2 13, 14 years old, I guess.

03:12:40 3 Q. Okay. How old were you in 1983?

4 A. How old would that be?

03:12:52 5 Q. I'm asking you.

6 A. Can I get a pen and paper? I'm not that
7 good at math.

03:13:02 8 Q. How old are you now?

9 A. How old was I? I don't know --

03:13:05 10 Q. How old are you now?

11 A. Oh, excuse me. Thirty-two.

03:13:09 12 Q. All right. So 16 years ago you would have
13 been about 16?

14 A. I guess. If that's what the figure is,
15 yes, sir.

03:13:19 16 Q. Okay. Were you placed on juvenile
17 probation as a runaway?

18 A. Yes, I was placed on probation for running
19 away. Yes.

03:13:30 20 Q. Okay. Did you go to -- about two or three
21 months later did you go to TYC?

22 A. Oh, yeah. Yes, sir.

03:13:39 23 Q. What for?

24 A. For running away.

03:13:41 25 Q. Again?

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1 A. Yes. I kept running away. They considered
2 it runaway. We lived, like, 5 miles out of town --
3 Cooper. We lived in Klondike; and all my friends
4 lived in Cooper, that I went to school with. And
5 instead of coming home Friday on the bus, I would
6 spend the weekend in town. And I would come back
7 home on Monday. And my mom said that she didn't want
8 that to happen, she wanted me home so that's why I
9 was considered a runaway.

03:14:08 10 Q. You didn't consider yourself running away?
11 Is that what you're telling the jury?

12 A. Yes. That's runaway. Run away from home
13 when you're supposed to be there. Stayed away from
14 home.

03:14:19 15 Q. All right. And you recall when you got out
16 of TYC?

17 A. I remember when I got out of TYC, yes, sir.

03:14:30 18 Q. Okay. About a year later you were arrested
19 for a burglary in Delta County; is that correct?

20 A. Delta, yes, sir.

03:14:37 21 Q. Okay. And a little bit after that you were
22 placed on probation for that burglary; is that
23 correct?

24 A. Uh-huh.

03:14:50 25 Q. Okay. And a little bit after that you

PAULA K. FREDERICK, CSR
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1 committed another burglary; is that correct?

2 A. Yes.

03:14:55 3 Q. Okay. Were these burglary of a habitation?

4 A. Some of them were. On one occasion me and
5 these other two guys burglarized, like -- out there
6 in Klondike they have maybe -- car lot, maybe 10 or
7 15 cars. Went out there one night and raised the
8 hood and stole some parts off the motor; and they
9 said that was, like, an auto theft for stealing the
10 car parts.

03:15:22 11 Q. Okay. Well, tell me about the houses you
12 burglarized. That's what you ended up going to the
13 penitentiary for, wasn't it?

14 A. Yes.

03:15:29 15 Q. Okay. Tell me about the houses you
16 burglarized.

17 A. What about them?

03:15:34 18 Q. Well, what did you do? Did you crawl in
19 through the window, did you kick down the door?

20 A. No. I went through the door on one of
21 them.

03:15:41 22 Q. What about on the other one?

23 A. That same entrance on all of them. I went
24 through the door.

03:15:47 25 Q. You always went through the door?

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1 A. Uh-huh. On that first time the door was
2 open.

03:15:50

3 Q. What did you take?

4 A. On that first one I personally took what
5 they call a snake charmer -- like a .410 shotgun and
6 there was a .32 pistol and a .22 pistol; and that was
7 all I took.

03:16:09

8 Q. Okay. And you went to the penitentiary for
9 how long on that one?

10 A. On that specific one?

03:16:19

11 Q. Yes, sir. First time you went to the
12 penitentiary.

13 A. First time I went to the penitentiary?

03:16:26

14 Q. Yes, sir.

15 A. What's the question? First time I went to
16 the prison?

03:16:30

17 Q. How long were you sentenced for?

18 A. Oh, the first time I had burglary they give
19 me ten years' probation for the burglary that I
20 didn't do. I don't know how long -- several months
21 after that I was on probation for ten years. I
22 burglarized again except this time it was, like, two
23 or three -- two or three houses and, like -- other
24 than that small town in Klondike they, like, a --
25 what they consider a fire department. And me and

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1 this other guy went in there and took some change and
2 a couple of sodas and that was it.

03:17:15

3 Q. Okay. Were you ever sent to a restitution
4 center for burglary?

5 A. For burglary? I may have been. I know I
6 was at a restitution center, but I can't remember if
7 it was for a burglary or sent there because maybe I
8 wasn't paying my restitution that was judged on me
9 whenever I burglarized -- restitution, court costs --
10 and I think that's why I was sent there, to the
11 restitution center. But it may be, like you said,
12 one of them burglaries.

03:17:47

13 Q. Okay. And did you get your probation
14 revoked for leaving the restitution center without
15 permission?

16 A. Yes, sir. I come -- I left the restitution
17 center in Texarkana and went back to Sulphur Springs
18 for a couple of days -- I think the weekend. Then I
19 come back; and whenever I come back, they had took
20 all my property out of my room there at the
21 restitution center and arrested me and revoked me for
22 leaving without what they call a pass -- a legal
23 pass -- a weekend pass.

03:18:21

24 Q. Well, you knew you had to have a pass to
25 leave, didn't you?

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1 A. Oh, yeah, I knew I had to have a pass; but
2 it was just -- I wanted to go home to see my people,
3 and I just took it on myself to leave.

03:18:34 4 Q. Okay. And you were sentenced to seven
5 years for burglary; is that correct, in the
6 penitentiary?

7 A. After the ten years -- Judge told me ten
8 years' probation, I burglarized again; and he gave
9 me -- took the ten years away and said, "We'll just
10 give you seven years TDC time since you burglarized
11 again."

03:18:55 12 Q. How long did you spend in jail at that
13 time?

14 A. Six or seven months. Then they sent me to
15 the Hilltop Unit, and I did another six or seven
16 months.

03:19:10 17 Q. Okay. And you were paroled; is that
18 correct?

19 A. Yes, sir.

03:19:12 20 Q. Okay.

21 A. Them crimes was committed, like, in
22 Klondike or Cooper -- in Delta County; and I went to,
23 you know, prison -- to TDC, and I made my parole
24 plans. And instead of going back to that same
25 community, I switched to Snyder in Scurry County,

1 West Texas, because the environment -- my mom and dad
2 basically didn't want me paroled back to their house
3 because I had made, I guess, a reputation that their
4 son had done that.

5 So I paroled to my brother-in-law and
6 sister's house in '87. And was doing good for two --
7 all the way up to '89. Then that's when my
8 brother-in-law and me got into an argument and I
9 moved in with that bootlegger that was selling
10 cocaine and beer and stuff and the police run in
11 there and that's how I got the possession charge for
12 half a gram of cocaine for 15 years in '89.

03:20:13 13 Q. Okay. And were you released on parole
14 again?

15 A. In '91. From '89 to '91 -- two years give
16 or take six months. I know it wasn't a year and a
17 half. I know it was closer to two years. Maybe a
18 little over two years. Maybe 1991.

03:20:41 19 Q. Okay. And were you ever declared an
20 absconder regarding your parole conditions?

21 A. Absconder? What does that mean?

03:20:51 22 Q. That means you run off, didn't report to
23 your parole officer, things like that.

24 A. Oh, yeah. In '93 that's whenever I was
25 sent to Beto I. I went to jail in '93 because I was

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(979) 361-4270

1 in Fort Worth, and that's how I met that girl I
2 married in Fort Worth. And, like -- didn't I explain
3 that before, that I married her and turned myself in
4 for the parole violation in '93? Then in February of
5 '94 is when they sent me to Beto I.

03:21:21 6 Q. Okay. How long were you in Beto I?

7 A. January 1st of '94 -- I say February, '94,
8 all the way up till 9/5/97.

03:21:36 9 Q. Okay. And since that time you were
10 arrested for this case that you're on now; is that
11 correct?

12 A. Yes, sir. Since I got out of Beto I this
13 is the first time I've been in jail, yes.

03:22:04 14 Q. Would you look at both sides of what's been
15 marked State's Exhibit 117 and ask if that pretty
16 much characterizes your criminal history?

17 A. Where does it start at? Oh, on this side?
18 I'm kind of confused on how y'all got
19 this printed up. Can I ask you some questions about
20 this?

03:22:48 21 Q. No, sir. You can just answer my question.

22 A. Well, they're saying that --

23 MR. BURLLOW: Your Honor, I have to
24 object -- excuse me, Russell.

25 I have to object to him trying to get

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1 Russell to testify from that document that's not
2 admitted into evidence.

3 MR. HARDY: I'm asking if he can
4 identify it.

5 THE COURT: The objection is
6 overruled.

7 MR. HARDY: Thank you, Judge.

8 MR. WALKER: Can I ask him just a few
9 questions on voir dire, Your Honor?

10 THE COURT: No, not yet. We still
11 need to ...

12 MR. WALKER: Well, the question is
13 whether or not he can identify the document; and I
14 think I have a right to ask him if he's ever seen
15 that document before.

16 THE COURT: Well, I don't think you
17 do. You can ask him that on redirect.

18 A. I understand this side and all the way up
19 to about right here. (Indicating) I'm stuck on that
20 word "absconded." I think they put me in for,
21 like -- for parole violation, it's called whacking
22 up, for like 90 days. And stuck me in one of them --
23 just for 90 days, a place called whacking. Is that
24 what that's referring to?

03:25:26 25 Q. Yes, sir.

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1 A. Pretty much, as far as my knowledge on that
2 backside, I'm still confused on them '83 and '87
3 dates. If you can explain them to me.

03:25:37

4 Q. Okay. Says, '83 defendant placed on
5 juvenile probation --

6 MR. BARLOW: Your Honor, I object to
7 Mr Hardy reading from --

8 MR. HARDY: Judge, I'm trying to tell
9 him what he wants to know.

10 MR. BARLOW: Your Honor, I object. I
11 don't think there's anything in the rules that allows
12 a witness to question the lawyer and have the lawyer
13 then read from documents that have not been
14 introduced in evidence.

15 THE COURT: The objection is
16 overruled. Trying to get this identified. So let's
17 try to get that done and move on.

18 MR. WALKER: Your Honor, that would be
19 the purpose of my voir dire. If he doesn't recognize
20 that document, he can't identify it, then it's
21 clearly not admissible.

22 THE COURT: He's not asking him to
23 identify a document. He's asking him to identify
24 what's on the document. So that's -- that's not what
25 we're dealing with here. So ...

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1 MR. HARDY: Maybe I can clear this up,
2 Judge.

03:26:22

3 Q. Mr. Brewer, this is what me and you just
4 talked about here; isn't that correct?

5 A. Yes, sir.

6 MR. HARDY: Your Honor, at this time
7 the State would tender into evidence State's Exhibit
8 No. 117.

9 MR. BARLOW: We object, Your Honor
10 under Rule 801 and 802. This is hearsay and hasn't
11 been proved up as a government document or any other
12 exception to the -- under 806 to the exclusion of
13 hearsay rule. It's merely a summary that's
14 apparently been typed up by someone.

15 THE COURT: Are you offering it as a
16 government document or as a summary?

17 MR. HARDY: No, Your Honor. I'm
18 offering it as his criminal record that he has just
19 testified to and a summary of that, Judge.

20 MR. BARLOW: We would object, Your
21 Honor. It's not authenticated under the rules nor is
22 it proven up under the Rules of Evidence that require
23 the predicate to be laid for the introduction of
24 documents such as that, criminal histories.

25 THE COURT: May I see it?

PAULA K. FREDERICK, CSR
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1 The objections are overruled. 117 is
2 admitted as a summary not as a government document.

03:27:09 3 Q. (BY MR. HARDY) Now, Mr. Brewer, when did
4 you come to Beto I? What year?

5 A. February of '94.

03:27:47 6 Q. Okay. And when you got there, you were
7 talking about standing against the wall for, what,
8 two days?

9 A. Yes. Yes. Somewhere in there.

03:27:57 10 Q. Did you ever go to the bathroom during that
11 two days?

12 A. No. Yes, I went to the bathroom. When I
13 said standing against the wall, every time I entered
14 the day room, every time you go to any meals --
15 lunch, you know, all your three meals; the showers --
16 any time you come outside your cell to leave the cell
17 block itself, then you have to go in the day room
18 until they call that other day room. On returning
19 from meals and shower, you sent in the day room until
20 there's an officer that will roll the doors and let
21 you in your cell.

03:28:24 22 Q. Okay.

23 A. And if you're in the day room, you're
24 supposed to be sitting down because the guards walk
25 by. If you're not sitting down, they tell you you

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1 need to sit down.

03:28:33 2 Q. Okay. When you talk about being cliqued
3 on, that means someone starts a fight with you; is
4 that correct?

5 A. Two or more people, that's considered a
6 clique, yes.

03:28:42 7 Q. Okay. And so for two days you stood up
8 there and nobody cliqued on you; is that correct?

9 A. Yes, sir.

03:28:49 10 Q. Okay. Now, how many gangs are at Beto that
11 you know of when you were there and at that time?

12 A. There was several. A lot.

03:28:59 13 Q. Name a few of them.

14 A. Crips and your Bloods and your numerous
15 amounts of Spanish people, but I don't know the names
16 for their -- for their gangs. Then you got the a BC
17 and AB.

03:29:15 18 Q. Okay. And out of all that for two days
19 nobody tried to start a fight with you; is that
20 right?

21 A. No. I was approached by two Spanish guys
22 one on each side. One of them was talking to me; and
23 I, more or less, was prepared for this other guy to
24 hit me. I had been talking to this other guy. And
25 they just asked me what I was going to do, if I was

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1 going to give them a bribe -- what I was going to do.
2 And I told them I'm not giving them my commissary
3 because I didn't have very much money. And if they
4 were going to do anything, they was going to do it
5 right there. I wasn't approached.

03:29:52 6 Q. So you pretty much called out these two
7 Hispanic guys; is that right?

8 A. I didn't call them out. They approached
9 me, wanted to know what I wanted. I was wanting to
10 sit down on the bench like a normal person.

03:30:03 11 Q. Well, you told them if they wanted to do
12 anything to get to it, didn't you?

13 A. Yeah. I told them this --

03:30:08 14 Q. And they didn't get to it, did they?

15 A. No.

03:30:11 16 Q. That's because you were built pretty much
17 like you are in this picture right here, State's 105;
18 isn't that correct?

19 A. I wouldn't say I was looking like that.
20 That's because I was working out every day plus I was
21 on some stuff -- them pills and vitamins and that
22 stuff -- Shawn give me that shot with. I would say
23 that's why I'm built like that whenever I went into
24 the Jasper jail. I was nowhere close to that when I
25 was in Beto I -- I wasn't looking like that, no.

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03:30:58 1 Q. But the fact of the matter is, however you
2 were built, in this big, bad Beto I you stood up
3 there for two days and only --

4 A. I wouldn't say two days. Maybe day and a
5 half, two days. I would say only --

03:31:10 6 Q. And only two people came up there?

7 A. Yes, sir.

03:31:13 8 Q. And you pretty much told them if they
9 wanted to do anything, to get to it, and they backed
10 off; isn't that right?

11 A. Sir, they approached me. They wanted to
12 know what I was going to do -- if I was going to give
13 a bribe -- what's considered a bribe when you give
14 them commissary. My reply to them was, "I'm not
15 going to do no sexual favor to you. I'm not giving
16 you my commissary. If you want to beat me up, come
17 beat me up." Now, if you consider that me calling
18 them out -- write it down. I didn't call them out.
19 They approached me.

03:31:51 20 Q. Okay. And they didn't -- and they didn't
21 do anything; is that right?

22 A. No.

03:31:56 23 Q. Okay. Now, about how long after that --
24 about how long after that did you talk to Daniel
25 Barker?

PAULA K. FREDERICK, CSR
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1 A. About what? About sitting down on the
2 bench?

03:32:14 3 Q. Did y'all talk about that, about staying
4 down?

5 A. He approached me after I sit down on the
6 bench -- I don't know if there was ten or 15, 20
7 minutes. I would say within that same day after I
8 sit down. And, yeah, he was explaining to me that
9 the reason why that was done was so they could find
10 out what they call seeing where your heart was, if
11 you were going to fight to defend yourself or if you
12 was going to let someone beat you up and take your
13 stuff. If anyone sits down on that bench, then they
14 have to be strong and defend theirselves if they're
15 approached on that situation. And then later on,
16 like a week or two after that -- then that's when
17 they approached me about the Confederate Knights of
18 America.

03:33:02 19 Q. Okay.

20 A. I guess he approached me like that before
21 the AC or the AB approached me because whenever a
22 white guy comes in the prison and shows that he's
23 going to defend himself then he's -- all them
24 gangs -- white gangs are looking at him more or less
25 what they call -- let me think of the word.

PAULA K. FREDERICK, CSR
(979) 361-4270

1 Prospect. That's what prospecting means, when they
2 look at you to see if you got potential to be in
3 their gang. And I assume that's why Barker wanted
4 me -- to approach me like that before the AC or the
5 AB approached me wanting to know if I wanted to go
6 with their gang, to tell you the truth.

03:33:47 7 Q. Now, you were one of the original members
8 of the Confederate Knights of America in Beto I --

9 A. I was one of the original ones --

03:33:54 10 Q. Let me finish so she can take it down.

11 A. I'm sorry.

03:33:56 12 Q. You were one of the original members of the
13 Confederate Knights of America; is that correct?

14 A. Yes.

03:34:01 15 Q. In Beto I?

16 A. Yes, sir.

03:34:03 17 Q. Okay. And at that time Daniel Barker was
18 the leader; is that correct?

19 A. Yes, sir.

03:34:11 20 Q. Okay. And there was a number of y'all
21 right at first; is that correct?

22 A. Right at first?

03:34:19 23 Q. Yes, sir.

24 A. Like I said, whenever I was -- I was the
25 third so-called member to be into the Confederate

PAULA K. FREDERICK, CSR
(979) 361-4270

1 Knights of America. We may get -- a month or every
2 two months there was a new person that was -- the
3 tattoo was put on them, they were considered a
4 so-called member; and it was just growing.

03:34:41 5 Q. Okay. Who witnessed Daniel Barker's oath?
6 Did you witness Daniel barker's oath?

7 A. It's possible since we was on the same cell
8 block, yes; but then the most was -- that is not the
9 exact date that someone entered the oaths -- them
10 dates on them oaths was the time that the papers were
11 typed up and every one -- once they was typed up the
12 date they were showed them papers, that's the date
13 that was on there. That's not necessarily the date
14 they was tattooed up.

03:35:12 15 Q. Well, you were the witness to Daniel
16 Barker's oath, weren't you?

17 A. It's possible, yes, sir, since we was on
18 the same cell block and you can't witness your own
19 signature. So whoever is the closest member there,
20 that's the witness.

03:35:26 21 Q. Well, at that time y'all were the only CKA
22 in Beto; isn't that correct?

23 A. No, sir. There was Barker and a guy named
24 Roy King and me whenever I got in there.

03:35:37 25 Q. You were the only CKA chapter on Beto?

PAULA K. FREDERICK, CSR
(979) 361-4270

1 A. Oh, yes, sir. There was only, like, one
2 chapter -- so-called chapter. That's what Barker
3 named it was the Rebel Soldiers of the Confederate
4 Knights of America and then he put that Rebel Soldier
5 and that's what Beto I was considered Rebel Soldiers.

03:35:56 6 Q. Now, so there was only two of y'all that
7 could have witnessed Mr. Barker's oath; is that
8 correct? Either you or Roy King?

9 A. Yeah. Yes, sir.

03:36:04 10 Q. And you did it; isn't that correct?

11 A. Yes, sir.

03:36:07 12 Q. Okay. And you witnessed a number of other
13 people's blood oath; is that correct?

14 A. Yes, sir.

03:36:13 15 Q. Okay. Now, who witnessed yours?

16 A. I don't know. I would have to look on my
17 paper -- that document. Says Daniel Barker.

03:36:44 18 Q. Is that who did it?

19 A. Looks like his name. Daniel Barker, yes.

03:37:00 20 Q. Now, the first time you talked about these
21 blood oaths, you were crying. Have you got over
22 that?

23 A. The first time I talk about them blood oath
24 I was crying?

03:37:08 25 Q. Yes. You were crying in front of this

1 jury. Are you over that?

2 A. I wasn't crying over them blood oaths, sir.

03:37:15 3 Q. That's what you were talking about when you
4 started crying, wasn't it?

5 A. Not to my knowledge. We were talking about
6 looking at them pictures of Mr. Byrd.

03:37:21 7 Q. You -- that was the first time you started
8 crying?

9 A. I might have been crying telling the
10 stories but not during that particular story about
11 the blood oaths, no.

03:37:33 12 Q. Okay. Now, how many fights were you in
13 during the time you were in the Texas Department of
14 Corrections, altogether?

15 A. From -- all the way from '87 -- eight years
16 I been locked up?

03:37:52 17 Q. Yes, sir.

18 A. I figure -- I would say two, three --
19 three -- four at the max. Three minors and two --
20 two maybe, three minors and -- you know, one on one;
21 and then that one major one when all that stuff went
22 down in the dayroom at Beto I.

03:38:10 23 Q. Okay. Now, how many people were in the CKA
24 there on Beto?

25 A. At one time there -- the unit I would say,

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(979) 361-4270

1 rough estimate, 12 or 13 give or take one or two. No
2 more than 14 or 15 all at one time at Beto I. Then
3 you got to consider the unit is north side and south
4 side which means maybe six members on the south side
5 and seven or eight on the north side. Then got to
6 figure different cell blocks. So we was separated.
7 Wasn't, like, all 15 members on one specific wing at
8 one time.

03:38:43 9 Q. Okay. And at one time there was only three
10 of y'all; is that correct?

11 A. Yes.

03:38:49 12 Q. Then it was 3 up to 14, would that be
13 correct?

14 A. Through the time, yes, sir.

03:38:55 15 Q. Through time?

16 A. Since I got there in February.

03:38:58 17 Q. Some was on one cell block and some was on
18 the other?

19 A. Yes, sir.

03:39:02 20 Q. Okay. Now, was the Texas Syndicate there
21 on Beto?

22 A. Threw me off there. That sound like a
23 Spanish gang.

03:39:14 24 Q. How many members were there in the Spanish
25 gangs?

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1 A. There was -- I really couldn't tell you
2 because this was, like -- the first two or three
3 benches were, like, the Houston and some other city.
4 In the back was, like, Dallas and the Valley. They
5 just had a way of, like, separating the Spanish
6 people from their towns and then they had their way
7 of separating them from their gangs and from --

03:39:42 8 Q. Okay.

9 A. It was all confusing as far as --

03:39:44 10 Q. Now, there was -- was there more than there
11 was in the CKA?

12 A. More what?

03:39:51 13 Q. More Spanish members in a gang.

14 A. I imagine.

03:39:54 15 Q. Well, you were there. You know. Was
16 there, or was there not?

17 A. Yes, sir. There's a lot of people in a lot
18 of them gangs.

03:40:00 19 Q. Okay. What about the black gangs? Was
20 there more people in the black gangs than there was
21 in the CKA?

22 A. Yes, sir.

03:40:09 23 Q. Okay. And you stated you had two fights at
24 Beto or one fight?

25 A. As far as I remember I think that -- what

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(979) 361-4270

1 they consider the riot -- major disturbance or
2 whatever, that was where the Spanish and the white
3 people were fighting -- that was the only one, to my
4 knowledge. The only one I can remember is the two at
5 Hilltop which was just one on one where a guy --
6 threw a hot pie in my face and me and him went to
7 fighting and broke it up when the boss said, "Break
8 it up," and then that major riot.

03:40:49 9 Q. Okay. So actually you were only in two
10 fights then; is that correct? Is that what you're
11 telling the jury?

12 A. Two fights?

03:40:53 13 Q. Yes, sir.

14 A. I'm saying there may be one -- one more
15 minor fight.

03:41:00 16 Q. Okay.

17 A. I think I was in two fights at Hilltop and
18 one major fight at Beto I.

03:41:08 19 Q. Okay. Now, this thing at Beto I that was
20 termed as a riot -- you stated to the jury that
21 there was a man -- there was a white man, and he was
22 squatted down; is that correct?

23 A. Yes.

03:41:20 24 Q. And there was some Hispanic people around
25 him. Were they hitting him, kicking him, or what?

PAULA K. FREDERICK, CSR
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1 A. Yes, sir.

03:41:27

2 Q. Okay. And how many Hispanics were there
3 around him doing all this?

4 A. That was kicking that white guy in the
5 corner?

03:41:33

6 Q. That's right.

7 A. One on each side and one in the middle.

03:41:36

8 Q. Three of them?

9 A. I would say three of them.

03:41:38

10 Q. Okay. And you walked up and you threw the
11 Hispanic guy out of the way?

12 A. I didn't throw him. I pushed him out of
13 the way; like, you know, get off of him. I wasn't
14 even -- I actually didn't even know they were -- a
15 major fight fixing to go down. I knew that there was
16 a white guy they was saying earlier was supposed to
17 get checked for telling it on the Mexican and the
18 white guy and --

03:41:59

19 Q. Okay.

20 A. -- I pushed him out of the way and grabbed
21 him by the shirt and told him to stand up.

03:42:05

22 Q. Okay. All that happened to you with these
23 three Hispanics is they hit you a couple of time --

24 A. I don't believe they was the one hitting
25 me. By the time I pulled him up it was, like,

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1 everyone bomb rushed the back of the dayroom -- which
2 in the back dayroom you got two tables then you got
3 the benches -- all them benches. So you really don't
4 have that much space.

5 By the time I pulled him up, like I
6 said, I got hit, like, two, maybe three times --
7 before I turned around the boss said, "Get down. Get
8 down." And they made everyone get down. And I
9 didn't have time to even think about swinging on
10 anybody or hurting -- doing any harm to anybody. I
11 was trying to shake it off.

03:42:47 12 Q. You didn't go down when they hit you. The
13 only reason you went down is because the guards told
14 you to get down; is that correct?

15 A. Yes, sir.

03:42:53 16 Q. And you kept this white guy from getting
17 hurt; is that correct?

18 A. Yes, sir.

03:42:59 19 Q. And when you talk --

20 A. That was my intentions, yes, sir.

03:43:02 21 Q. And that's what you did?

22 A. Oh, yeah.

03:43:03 23 Q. Okay. Now, how many guys were there in
24 this riot?

25 A. Maybe seven -- six, seven, eight. I would

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1 say closer to eight than six white guys and about 15,
2 20 Hispanics. There was no blacks involved in there,
3 and what it was was like a bunch of prisons send all
4 of their -- I guess their school people there to Beto
5 I for that specific cell block. So there was other
6 inmates from other units that didn't know what -- you
7 know, how to behave, I guess. And when all that
8 stuff went on, everyone scattered like there was a
9 big fire in the dayroom. And if you're caught up in
10 the action, you ain't got nowhere to go except to
11 stand there and, I guess, accept getting hit in the
12 head because you can't run. There's swinging all
13 around -- people swinging all around. You know, the
14 lucky ones is the ones that was sitting at the front
15 of the benches. They had time to escape before they
16 slammed the doors shut.

03:44:13 17 Q. Now, you stated to this jury about people
18 being sexually abused. You were never sexually
19 abused in Beto I, were you?

20 A. No, sir; but I was sure had -- the odds
21 were against me when I first come in there; you know,
22 being a new guy and, you know, looking like -- you
23 know, with no tattoos or nothing on. And that's the
24 major ones that they look for. So I -- if that
25 answers your question. No, I wasn't never sexually

PAULA K. FREDERICK, CSR
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1 abused.

03:44:44 2 Q. That answers my question.

3 A. Okay.

03:44:47 4 Q. And you were only approached during that
5 day and a half or two days you was up there waiting
6 for someone to come try to and clique on you -- you
7 was only approached by two people and they didn't do
8 anything; is that right?

9 A. They didn't do nothing; but they had me on
10 my toes even more because once they approached me, I
11 knew it was fixing -- they were fixing to do
12 something.

03:45:10 13 Q. You were ready to get to it if you had to?

14 A. If I had to. I didn't have no choice. I
15 wasn't gorgeous like -- nor what they had said when
16 they approached me and let my guard down and get
17 surrounded by -- you know, being put in that
18 position.

03:45:26 19 Q. You didn't show any weakness. That's what
20 you're telling the jury?

21 A. I told them I wasn't going to give them my
22 commissary; and if they were going to fight me, they
23 would do what they was going to do and get it over
24 with. And I guess that's not showing weakness
25 because they didn't -- they didn't approach me so I

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1 guess they didn't -- they considered me -- I guess
2 they thought that I was going to fight back so they
3 just left me alone.

03:46:01 4 Q. Okay. Now, Daniel Barker was the EC of the
5 Confederate Knights when they were first organized;
6 is that correct?

7 A. Yes, sir.

03:46:18 8 Q. He was -- that's exalted cyclops?

9 A. Yes, sir.

03:46:19 10 Q. Okay. And who is David Nixon?

11 A. A guy that was there at Beto I and worked
12 in the laundry at one time. Whenever I worked in
13 maintenance, he worked in the laundry.

03:46:31 14 Q. What was David Nixon in the penitentiary
15 for?

16 A. I really don't know. I'm not even going to
17 guess at that because I would be afraid to guess. I
18 don't know. I couldn't tell you. I really don't
19 know.

03:46:44 20 Q. Well, was he in there for DWI?

21 A. I doubt it.

03:46:50 22 Q. He was in there for murder, wasn't he, sir?

23 A. He never told me that; and, no, I don't
24 know if he is or not, you know. A lot of people that
25 was there at Beto I had a lot of time -- like 70, 80,

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1 90 years and on up. And especially the -- there was,
2 like, a youngster farm where 30 and under was there
3 on that farm. A few 40 and 50 years olds, very few.
4 People had a lot of time so -- evidently he had been
5 in there for a lot of time but they sent me there and
6 I was on a parole violation. So they would -- I
7 would say that there was short timers there, too; but
8 not as many as the long timers.

03:47:34 9 Q. Okay. Now, how long were you a CKA member?

10 A. Well, I would say about March of '94 --
11 middle of March, end of March somewhere around there
12 is where -- I was -- they put that tattoo on me, you
13 know.

03:47:56 14 Q. Till you got out?

15 A. Till I got out?

03:47:59 16 Q. Yeah. Till '97?

17 A. Well, like, one time I had told Barker that
18 I was supposed to go, you know, what they call
19 independent -- in other words, all by yourself.
20 And -- I don't know how to say it. That's what they
21 call independent where no one else is over you or no
22 one else is under you. Just by yourself. And then,
23 I don't know, maybe six or seven months later then I
24 told them -- well, I think -- I told him -- I wrote
25 him a letter and I told them that I guess since I'm

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1 fixing to get out and I'll go ahead and turn in my
2 independent papers -- whatever you call it. In other
3 words, I was telling him I didn't want to be
4 independent anymore. I wanted to be considered a
5 member again because I was getting out and I wanted
6 to get out and more or less keep the people that --
7 CKA while I was in prison you know writing them and
8 sending them pictures and magazines.

03:49:18 9 Q. Just answer my question, if you would,
10 Mr. Brewer. Were you still in the CKA when you got
11 out of prison?

12 A. Yes, sir, as far as my best --

03:49:26 13 Q. So you were there about three years? Okay.
14 And during this three years that you were CKA there
15 was -- was there or was there not more Hispanic gang
16 members and black gang members on Beto I in your
17 side -- north side and/or south side?

18 A. Whenever I was -- could you repeat that
19 again?

03:49:47 20 Q. Yes, sir. Was there more Hispanic gang
21 members and black gang members than there were CKA
22 members on whatever side of the --

23 A. Yes, sir. Every time -- every day I was at
24 Beto I there was more.

03:50:00 25 Q. Okay. Now, you wrote a letter to Barker

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1 talking about him being the EC one place and you
2 being the EC another; is that correct?

3 A. Yes, sir. That was whenever he got shipped
4 to the Terrell Unit.

03:50:31 5 Q. Okay. So you were the exalted cyclops of
6 the CKA after Mr. Barker left?

7 A. I wasn't sure. I was confused. They just
8 upped and put him on a bus and took him to another
9 prison. And we had never discussed before he left
10 who specifically -- about the EC being the main
11 leader here overcharged on all these units or what.
12 So whenever they transferred him to the other prison
13 unit, then all these guys at Beto I that was
14 supposedly under me -- they wasn't listening to me so
15 I wrote him a letter and asked him if he was the EC
16 or if I was left in charge of the EC since I was the
17 highest -- the highest rank or the seniority -- the
18 oldest member of the CKA or the -- oldest member of
19 the CKA on the unit.

03:51:25 20 Q. Okay. The letter that you wrote to David
21 Nixon?

22 A. Yes, sir.

03:51:29 23 Q. Okay.

24 A. Which one?

03:51:32 25 Q. Okay. Did you talk about -- did y'all use

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1 the pages of the Bible in that letter?

2 A. Yes, sir. You want me to tell you what
3 that meant? Is that what you're asking?

03:51:41 4 Q. Well, I'm asking you did you say that.

5 A. Yes, sir.

03:51:43 6 Q. And you wrote it in there?

7 A. In a letter to Nixon, yes, sir.

03:51:46 8 Q. Yes, sir. What did it say? What did you
9 say?

10 A. About what? About the pages in the Bible?

03:51:51 11 Q. Yes, sir.

12 A. Beto I -- you know, since they took the
13 smoking out of the system -- smoking cigarettes, and
14 the inmates would, like, get cash in from their
15 visitors -- 20-dollar bills and 50-dollar bills and
16 sometimes occasionally 100-dollar bills -- and they
17 would buy packs of cigarettes for \$20 a piece --
18 \$20 -- a dollar bill for one pack of cigarettes. And
19 they would sell each cigarette for \$3 worth of
20 commissary. Or you could tear that cigarette apart
21 and roll it up into two cigarettes and sell them for
22 \$2 for each rolled-up cigarette. And that's what I'm
23 talking about the Bible -- they used the Bible --
24 little brown bibles and they tore the pages out of
25 the Bible -- tore the page in a half; and when they

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1 tore the cigarette in half, they used each page out
2 of the Bible for the rolling papers for the
3 cigarettes. And they sold rolled up page for \$2 a
4 smoke. That's what --

03:52:57 5 Q. And that's what you did?

6 A. That's what me and everyone else at Beto I
7 was smoking, was Bible papers.

03:53:07 8 Q. Okay.

9 A. With no complex because they say that if
10 you read the Bible and show weakness and -- that's a
11 sign of weakness and --

03:53:17 12 Q. Now, you were -- who were you living with
13 before you went to Jasper?

14 A. With my girlfriend Tammy Perritt.

03:53:28 15 Q. Okay. Now, did you tell her before you
16 left when y'all had this fight that you were going to
17 be with someone who loved you?

18 A. Before we had the fight?

03:53:38 19 Q. No. After you had the fight and you were
20 getting ready to go to Jasper. Did you tell her you
21 were going to go there to be with someone who loved
22 you?

23 A. I don't understand what you were saying.
24 After we had the fight?

03:53:48 25 Q. Yes.

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